S.B. CIVIL WRIT PETITION NO. 1126/2005.
(RAMESHWAR LAL VS. STATE & ORS.)

DATE OF ORDER : 17.11.2006.

**HON'BLE MR. GOVIND MATHUR, J.**

Mr. C.S. Bissa for the petitioner/s.
Mr. B.L. Tiwari, Dy.GA, for the respondent/s.

By the order dated 25.03.1988 appointment was given to the petitioner as Electrician in Work Charge Cadre of Public Health & Engineering Department in the office of Executive Engineer, Churu Division. Along with petitioner, one Shri Kewal Krishna Verma s/o Shri Chaman Prakash Verma was also employed as Electrician. By the order dated 11.02.1992, the respondents conferred Semi Permanent Status to the petitioner to the post of Helper Grade -II. Semi Permanent Status was also conferred to Shri Kewal Krishna Verma as Helper Grade -II, though he too was employed as Electrician. Shri Kewal Krishna Verma being aggrieved by the same, preferred a writ petition (SBCW No.798/93) before this Court, that came to be accepted by the judgment dated 09.08.2004 directing the respondents to to modify the order, whereby Semi Permanent Status was given to above named Shri Kewal Krishna Verma as Helper Grade -II by conferring Semi Permanent Status to him as Electrician Grade -II from the date he completed two years of service i.e. 01.04.1990. The petitioner also being aggrieved by the grant of

Semi Permanent Status on the post of Helper Grade -II, preferred a writ petition before this Court, but unfortunately, the same got rejected for the want of prosecution. The petitioner also raised an industrial dispute for redressal of his grievance, but the Industrial Tribunal, Bikaner by its award dated 16.02.2001 answered the reference by holding that no dispute survives between the parties as the pay scale concern is already given to the workman. Being aggrieved by the award dated 16.02.2001 and also to press the main grievance for non-confirmant of Semi Permanent Status to the post of Electrician Grade -II, this petition for writ is preferred.

It is contended by counsel for the petitioner that under Rule of Rajasthan Public Works Department (B&R) including Gardeners, Irrigation, Water Works and Ayurvedic Departments, Work Charged Employees Service Rules, 1964 a casual employee is required to be given Semi Permanent Status on the post he is working. In the present case, the petitioner was appointed as Electrician, therefore, he was required to be conferred with Semi Permanent Status on that post. To substantiate the contention, counsel for the petitioner has placed reliance upon the judgment of this Court in the case of Kewal Kumar Verma vs. State of Rajasthan (SBCW No.798/93 decided on 09.08.2004) and a Division Bench judgment of this Court in

the case of State of Rajasthan vs. Ashok Kumar & others (DBCSA No.175/93), wherein this Court held that an employee on completion of two years of satisfactory service, is required to be conferred with Semi Permanent Status on the post he is working.

A reply to the writ petition has been filed on behalf of the respondents stating therein that though the petitioner was appointed as Electrician, but Semi Permanent Status cannot be conferred to him as such, as the petitioner was discharging the duties of handling pump and not of Electrician. It is further stated that a petition for writ preferred by the petitioner has earlier been dismissed, therefore, the instant petition for writ for the same cause is not competent.

Heard counsel for the parties.

The objection with regard to competency of this petition for writ is raised on behalf of the State Government, but I do not find any merit in that on the count that the respondents have already conferred the Semi Permanent Status to a person, who was employed with the petitioner under the order dated 25.03.1998. As stated above, Shri Kewal Krishna Verma was appointed as Electrician along with the petitioner and this Court

after adjudicating his cause, has already ordered for grant of Semi Permanent Status to him on the post of Electrician Grade -II w.e.f. 11.04.1990. If this Court does not consider the claim of the petitioner i.e. in absolutely parity to the case of Kewal Krishna Verma and permit the respondents to continue the petitioner as Helper Grade -II, then that shall be nothing but consciousness discriminatory amongst the similarly situated person, which is forbidden by the constitutional mandate under Article 14 of the Constitution of India. It is not in dispute that the petitioner was appointed as Electrician under the order dated 25.03.1998 with Shri Kewal Krishna Verma by a same order.

It is well settled that under the Rules of 1964, Semi Permanent Status is required to be conferred to a casual employee on the post he is holding. The respondents though have stated in reply to the petition that the petitioner was handling pump, but have not disputed the order dated 25.03.88 appointment whereby was given to him as Electrician. The petitioner being holder of the post Electrician Grade -II, therefore, is entitled for getting Semi Permanent Status on the said post.

Accordingly, this petition for writ is allowed. The respondents are directed to modify the order dated 11.02.1992

by conferring the petitioner Semi Permanent Status as Electrician Grade -II with effect from 1.04.1990 and fixing him in the pay scale of Electrician Grade -II w.e.f. 1.4.90. The petitioner shall be entitled for all consequential benefits and further be considered for permanent status on the date of completion of 10 years of satisfactory service. The award dated 16.02.2001 is also quashed as it was on face erroneously held that no dispute survives between the parties, though that was very well in existence.

No order to cost.

**(GOVIND MATHUR)J.**

Anil/